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Maintenance of international peace and security

Revised working paper by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes

Introduction

1. Under Chapter VI, Article 33, of the Charter of the United Nations, Member States that are parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, are entreated to first seek a solution through one of the peaceful methods or means stipulated therein, one of which is the resort to regional arrangements or agencies.

2. The need for peaceful settlement of disputes, as envisaged under Article 33 of the Charter, was underscored in General Assembly resolution 37/10, by which the Assembly approved the Manila Declaration on the Peaceful Settlement of International Disputes and acknowledged the role of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization in elaborating the text of that Declaration. In this regard, on 9 December 1994, the Special Committee adopted the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security (hereinafter "the 1994 Declaration").[1]

3. The Charter establishes the Security Council as the principal organ charged with the responsibility for maintaining international peace and security, while foreseeing a role for regional arrangements or agencies, especially with regard to the peaceful settlement of disputes. Under Chapter VIII of the Charter, regional arrangements or agencies are encouraged to contribute towards the maintenance of peace and security insofar as such efforts are in accordance with the Charter. The Council is encouraged

[1] General Assembly resolution 49/57, annex. See also A/61/204-S/2006/590, A/67/280-S/2012/614 and Security Council resolution 2167 (2014).

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to utilize regional arrangements or agencies, but regional arrangements or agencies may take enforcement action only with the authorization of the Council.

4. In addition, Article 54 provides that the Security Council should at all times be kept fully informed of the activities undertaken or contemplated by regional organizations for the maintenance of international peace and security.

Main elements of the revised working paper

5. The Special Committee has had occasions in the past decades to consider principles that should guide the relationship between the United Nations and regional organizations or arrangements, as Member States expected the United Nations to play a greater role in the maintenance of international peace and security and more effectively respond to global threats and challenges.

6. Notwithstanding the past efforts of the Special Committee in considering and even adopting such guiding principles, recent historical and contemporary experiences of the international community, including the United Nations and regional arrangements or agencies, in various undertakings to address situations that threatened international peace and security have underscored the imperative of promoting better coordination and cooperation between the United Nations and regional organizations.

7. Given the important role that regional arrangements or agencies play in promoting the peaceful settlement of disputes, the rule of law, human rights and international humanitarian law in the maintenance of peace and security, it is necessary for the United Nations, including both the General Assembly and the Security Council, to explore urgent measures to improve their working relationship with regional arrangements or agencies towards the peaceful settlement of disputes.

8. These measures will include exploring institutional mechanisms to enable more effective and timely interaction and strategic cooperation between the Organization and the regional arrangements or agencies. In so doing, the Special Committee could not only build on its past work on this topic, but also draw from various seminal reports of the Secretary-General, including "An Agenda for Peace" (1992) and "In Larger Freedom" (2005), which highlight ideas such as:

(a) Regional security;

(b) The role that regional organizations could play in preventive diplomacy;

(c) Early warning systems;

(d) Peacekeeping and post-conflict peacebuilding and means by which the United Nations could work with regional organizations in more predictable and reliable partnerships.

9. Other reports of the United Nations organs dealing with these subjects may also be found relevant, for example the report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people (see A/70/95-S/2015/446).

10. Recent challenges have underlined the urgent necessity for the Special Committee to reactivate and revisit the topic of the need to strengthen the cooperation, coordination and relationship between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes that threaten international peace and security. These challenges include the perception that, in some cases, the United Nations has not succeeded in effectively cooperating with regional arrangements or agencies and that, in other cases, there has been a lack of clarity as to how the United

Nations might engage in situations concerning multiple regional arrangements or agencies at the same time.

11. In addition, revisiting this topic will offer Member States an opportunity to assess the degree of compliance with or implementation of the 1994 Declaration with a view to addressing any apparent gaps or shortcomings at the level of cooperation and working relationships between the United Nations and regional arrangements or agencies in the context of the peaceful settlement of disputes.

Identified gaps or shortcomings and challenges to greater cooperation

12. The following gaps or shortcomings and challenges to greater cooperation have been identified:

(a) It may be noted that fierce debates preceded the deployment of United Nations missions in some conflict zones (e.g. Liberia and Sierra Leone), reflecting the Organization's ambivalence towards co-deploying with a regional organization in Africa;

(b) **Lack of framework for a collaborative process**. In order to forestall future misconceptions or wilful manipulations of the provisions of Chapter VIII of the Charter, the United Nations must confirm its commitment to working more closely with regional organizations by creating, through a collaborative process, a framework that defines the responsibilities of the United Nations and relevant regional organizations in a given conflict situation, while maintaining flexibility with regard to the rate of response and other peculiarities of varied conflict situations. For example, it is a major principle of the United Nations not to intervene in a conflict without a peace agreement, whereas some regional organizations or arrangements are prepared to do so. However, in certain situations, it is not possible to negotiate peace agreements without first establishing some measure of stability. For example, the Economic Community of West African States (ECOWAS) deployed troops in Sierra Leone and Liberia without peace agreements and subsequently created the conditions for negotiations that led to the respective peace agreements;

(c) **Lack of monitoring mechanism**. A mechanism for monitoring and periodic evaluation should accompany the framework for cooperation between the United Nations and regional organizations or arrangements to ensure that all the parties fulfil their responsibilities;

(d) **Lack of partnership agreements between the United Nations and all regional organizations or arrangements**. Specific action should be taken to hold consultations on and finalize partnership agreements between the United Nations and regional organizations. For this relationship to be meaningful, the roles and obligations of all parties should be clearly stated, including whether United Nations approval of missions led by the African Union or ECOWAS will be granted before or after deployment and what effect this will have on the legitimacy of these missions. The principle of the sovereignty and territorial integrity of Member States is central to the United Nations. Likewise, the African Union respects the sovereignty of its member States. However, the Constitutive Act of the African Union, in stark contrast to its predecessor, the Charter of the Organization of African Unity, states that the Union has the right to intervene in a member State pursuant to a decision of the Assembly of Heads of State and Government of the Union in respect of grave circumstances, namely war crimes, genocide and crimes against humanity. This raises issues of how mandates will be determined and what criteria for intervention must be fulfilled by both organizations in order to ensure a smooth transition from one mission to another. In terms of cost-sharing, for example, the United Nations and bilateral and multilateral development partners of ECOWAS will have to bear the burden of financing joint United Nations-ECOWAS operations for the foreseeable future. Most

ECOWAS member States will not be in a position to contribute financially to peace missions while they continue to stagger under the weight of unwieldy debt burdens. Funding has long been a major issue for the African Union, ECOWAS and other African subregional organizations;

(e) It remains unclear what is the best way for the United Nations to engage in cases of dispute settlement concerning a State member of a regional organization that is not a member of the United Nations;

(f) A lack of structural arrangements makes it impossible for the regional arrangements to mobilize quickly to perform tasks when the United Nations is unable to do so;

(g) The establishment of a United Nations liaison office, along the lines of the United Nations Office to the African Union in Addis Ababa, should also help the relationship to develop, taking into consideration regional specificities;

(h) In regional organizations and arrangements, a council on peace and security could be established to liaise closely with the Security Council, along the lines of the Peace and Security Council of the African Union;

(i) **Streamlining capacity-building initiatives**. It is important to streamline the capacity-building initiatives of the United Nations and other development partners towards the priority areas and needs of regional arrangements or agencies:

(i) Strengthen the role of civil society to enhance their input in conducting research, providing expertise to regional organizations or arrangements and assisting in the implementation of stated goals in diverse areas of peace and security;

(ii) The organizations and arrangements should partner with universities and other educational and training institutions to establish training programmes specifically targeted at developing, especially among young people, the knowledge and skills needed to enhance capacity for conflict management;

(j) In cases where regional or subregional organizations deploy peacekeeping operations authorized by the Security Council, they contribute to the maintenance of international peace and security, in line with the provisions of Chapter VIII of the Charter and the need to enhance the predictability, sustainability and flexibility of the financing of regional organizations when they undertake peacekeeping under a Security Council mandate;

(k) Cooperation between the United Nations and some regional organizations or arrangements in crisis prevention and mediation has greatly contributed to the maintenance of peace and security in some parts of the world. However, partnership in this area remains largely ad hoc. There is, therefore, an urgent need to develop a common strategic vision underpinned by a common understanding in order to strengthen and better coordinate actions in the peaceful settlement of disputes.

13. It is anticipated that these identified gaps and proposals would be developed into guidelines to serve as a framework that would facilitate improved engagement between the United Nations and regional arrangements or agencies.

14. The references to the relationship between the United Nations and the African Union illustrate the need to strengthen the relationship and cooperation between the United Nations and regional organizations.